

July 18, 2012

Testimony to the Michigan Senate Insurance Committee

Mr. Chairman and members of the committee, I apologize for not being able to attend in person today, but wanted to share my story and express how important to health care in Michigan to support Senate Bills 1115-1118.

My name is Mark Walker, MD and I am an obstetrician and gynecologist from Marshall Michigan. As an OB/GYN, the services I provide and the practice I have are generally the largest targets for suits nationwide. With this trend, the OB/GYN specialty is one that is not attractive for our future physicians but one that is very much needed.

This package of bills would increase the amount of time and access that I have with my patients by keeping physicians in their practices rather than being in the court room. The best example I can offer was a suit that I was involved with 15 years ago. The suit involved a mother and child where they claimed I was negligent causing cerebral palsy due to the lack of oxygen to the child.

The mother was a patient of mine and came to me at 33 weeks complaining of abdominal pain. I ordered a number of appropriate tests and an ultrasound, finding there was no problem with the child and that the reproductive system did not appear to be the cause of the pain. I then consulted with a general surgeon to continue investigating the situation.

He was looking for a ruptured ulcer, a ruptured aneurysm (blood vessel) or something in the belly that might be affecting the stomach, liver or spleen. The surgeon ordered an x-ray and while prepping her to obtain the bedside image, the baby's heart rate dropped. We performed an emergency c-section and had to resuscitate the baby.

When the c-section was performed, both the surgeon and I noticed there was a lot of blood pooling, which lead us to the main artery supplying the spleen and found an aneurysm that had ruptured. We were able to stop the bleeding, remove the spleen, provide blood to the mother, and at the end

save both the mother's and the child's lives. With this condition, it is rare that both mother and child survive. The baby unfortunately developed cerebral palsy, whether due to prematurity or to the lack of oxygen when the rupture occurred, we don't know for sure. But, the outcome led to the lawsuit.

This suit took five years to run its course where a settlement was reached at the end. The most frustrating part of the case was the plaintiff's expert witness, who was a renowned OB/GYN and a fellow with the American College of Obstetricians and Gynecologists who lectured on emergency obstetrics care. The expert testified that it is not uncommon to deliver a baby when the mother is not stable, placing the mother's life at risk. We argued that the expert's testimony was contrary to what himself had recently written a chapter in his textbook that said when there is an emergency, the mother should be stabilized before worrying about the child. Even though his testimony was counter to what he had written, it was damaging enough to cause myself and the hospital to lose the case.

The first round of tort reforms in the 90's were supposed to provide protections to both physician and patient, but now have been eroded away. The number of my colleagues working in my specialty in Michigan is dwindling with the passing of each year. There are several counties, especially those in northern Michigan, that do not have any obstetrics care at all. This legislation that is before you today provides for the opportunity for physicians to move into Michigan and start their practices or grow their current practices. Contrary to what you have heard, this will not take away the rights of the patients to seek legal relief if there is negligence on behalf of the physician. But this also provides protection for physicians who do work within the standard of care to know that there is protection for them, as well.

Michigan needs physicians desperately, especially those who work in my specialty. Please support Senate Bills 1115-1118, pass them out of committee today, and help move forward Michigan health care future. Thank you for your consideration of my testimony today.

Submitted by:
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